THE HONOURABLE SRI JUSTICE

B.SUDERSHAN REDDY

AND

THE HONOURABLE SRI JUSTICE

RAMESH RANGANATHAN

WRIT PETITION Nos. 12705, 18101, 18102, 18103, 18091, 18093 & 18099 OF 2004

Dated: 17th August, 2005

Between:

M/s. Vadilal Chemicals Limited,

Plot No.18-A, APIIC Industries Estate,

Patancheru, Medak District,

rep. By its authorized signatory,

Mr.J.Rajender. -- Petitioner.

And

The Deputy Commissioner (CT),

Hyderabad (Rural), Hyderabad and another -- Respondents.

ORAL COMMON ORDER:

(per Honourable Sri Justice B.Sudershan Reddy)

The very petitioner in this batch of cases filed Writ Petition No.210 of 2003 seeking a

Writ of Mandamus declaring that the petitioner is entitled to the benefits notified vide G.O.Ms.No.117, dated: 17.3.1993. The petitioner also sough for a declaration that the pre-revision show cause notices dated: 3.10.2002 issued by the Deputy Commissioner (CT), Hyderabad Rural Division in respect of both A.P.General Sales Tax Act for the assessment years 1995-96 to 1999-2000 as illegal and arbitrary. That a Division Bench of this Court by its order dated: 2.7.2003 dismissed the said writ petitions, and, accordingly held that the activity undertaken by the petitioner does not involve any manufacturing activity as such, and, therefore, the petitioner is not entitled to get incentives in terms of G.O.Ms.No.117, dated: 17.3.1993. The show-cause notices issued by the Deputy Commissioner (CT), Hyderabad Rural Division, were accordingly upheld.

The petitioner carried the matter in appeal in Civil Appeal No. 1905/2004 questioning the correctness of the judgment of this Court. The Apex Court by its judgment dated: 2.8.2005 reported in **M/s. Vadilal Chemicals Ltd. V. The State of Andhra Pradesh** held as follows:

> " There is another reason why the action of the DCCT cannot be upheld. The primary facts relating to the processes undertaken by the appellant at its unit were known to the Department of Industries and Commerce and the DCCT. The only question was what was the proper conclusion to be drawn from these. The Department of Industries and Commerce, which was responsible for the issuance of the 1993 G.O., accepted the appellant as an eligible industry for the benefits. Apart from the fact that it can be assumed that the Department of Industries was in the best position to construe its own order, we can also assume that in framing the scheme and granting eligibility to the appellant all the departments of the State Government involved in the process had been duly consulted. The State, which is represented by the Departments, can only speak with one voice. Having regard to the language of the 1993 G.O., it was the view expressed by the Department of Industries which must be taken to be that voice.
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> It is true that on 17th March, 2000, the Commissioner of Industries issued a circular canceling Eligibility Certificates issued to Industrial Gases bottling units, Mineral Water and Sand Benefication units. But, the Commissioner of Industries had also directed the cancellation of the Temporary/Final Eligibility Certificate issued to such industries with effect from 30th March 2000 to the Commercial Taxes Department. The cancellation was, therefore, given prospective effect. If the DCCT wanted to rely on the circular, it had to give effect to it completely, and indisputably by 31st March, 2000 the period of sales tax exemption was over for the appellant."

The show cause notices are accordingly quashed.

These Revisions are directed against the final orders passed pursuant to the very same notices, which were quashed by the Apex Court. There is nothing left for us to adjudicate except following the judgment of the Apex Court and set aside the impugned orders, which arise out of the very show-cause notices that were quashed by the Supreme Court. The Writ Petitions, accordingly, are allowed and the impugned orders are set aside. No costs.

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(B.SUDERSHAN REDDY, J.)

17.8.2005.

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(RAMESH RANGANATHAN, J.)

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